

ADMINISTRATIVE COUNCIL ON TOXICS USE REDUCTION
Meeting Minutes
October 31, 2007

I. Call To Order and Introductions

Philip Griffiths called the meeting to order.

Council Members Present: Phil Griffiths (EEA), Suzanne Condon (DPH), Jim Colman (DEP), April Anderson Lamoureux (EED), Laura Marlin (DOS), Kevin Partridge (DFS).

Others Present: Rich Bizzozero (OTA), Mike Ellenbecker (TURI), Liz Harriman (TURI), Glenn Keith (Mass DEP), William Judd (Irwin Engineers, Inc.), John Raschko (OTA), Heather Tenney (TURI), Sam Lipson (MPHA), Rachel Massey (TURI), Lucy Servidio (Capaccio), Carolyn Fiore (MWRA), Stephen Gauthier (GE), David Wawer (MCTA), Rick Reibstein (OTA), Audrey Monaco (OTA), Mark Rossi (Clean Production Action), Lori Sims.

Rich Bizzozero distributed a list of Advisory Committee members that had been formally appointed by Secretary Bowles. Rich stated that he would be contacting the Committee members the following week to set up the initial meeting of that advisory committee.

II. Approval of Minutes

A motion was made and seconded to adopt the minutes from the July 31, 2007 Administrative Council meeting. The minutes were unanimously approved.

III. Massachusetts DEP Response to Comments – TURA Phase II Regulations – Environmental Management Systems (EMS) & Resource Conservation (RC) plans

Glen Keith reported three public hearings were held on the proposed TURA Phase II regulation changes during the month of August. The hearings were lightly attended and no oral testimony was provided. There were 4 sets of written comments received by DEP during the public comment period. Minor changes were made to the regulations as a result of the comments received. DEP is also finalizing the EMS and Resource Conservation guidance documents. The complete regulation package is undergoing internal review and the Agency plans to have the package finalized and promulgated by December 2007.

IV. Policy Analysis on Higher Hazard Substances - Council Vote to Adopt TCE and Cadmium and Cadmium Compounds as Higher Hazard Substances

1) TCE

Mike Ellenbecker summarized the process used by TURI for making recommendations on Higher Hazard Substances to the Administrative Council. He provided an explanation why some chemicals were inherently more hazardous than others and he reviewed the policy analysis and health concerns from the use of Trichloroethylene (TCE). Mike envisions the TURA program will be able to identify small users of TCE starting in January 2008 and work with them to find acceptable alternatives. He anticipates many companies will eliminate their use before the end of 2008 to get under the 1,000- pound threshold, thereby, eliminating the need to prepare a TURA report (Form-S) due by July 1, 2009. Jim Colman requested the program staff keep the Council apprised of successful techniques for reducing the use of TCE. Mike summarized and recommended that TCE be designated as a Higher Hazard Substance by the Council.

2) Cadmium and Cadmium Compounds

Mike reviewed TURI's policy analysis and explained why Cadmium and Cadmium Compounds are listed separately. He explained there currently are alternatives to this class of chemicals, and more are being developed that have less adverse health affects. Cadmium is heavy regulated by state and federal agencies because of its toxicity. TURA filers have made progress in reducing and eliminating of use of cadmium and its compounds. Mike summarized that cadmium is a very toxic material and that TURI recommends both cadmium and cadmium compounds be designated as Higher Hazard Substances.

A motion was made and seconded that TCE, cadmium and cadmium compounds be designated as Higher Hazard Substances. The motion was unanimously approved.

V. EEA Proposed Draft Regulations – 301 CMR 40.00 Toxics Use Fee and 301 CMR 41.00 Toxic or Hazardous Substance List – Council Vote to Retain CERCLA Chemicals for Calendar Year 2008

Rich Bizzozero provided an overview of the process to promulgate into regulation the action taken by the Administrative Council. He told the Council members there would be a 21-day public comment period and a public hearing on November 30, 2007 to take oral and written testimony on the proposed regulation changes.

After the close of the comment period, a response to comments will be prepared and the proposed regulations modified based on the comments received. The Council will have an opportunity to review the response to comments prior to the regulations going to the Secretary of the Commonwealth on December 14th. Final regulations will be published in the Mass Register on December 28, 2007 and will be in effect for 2008 calendar year reporting.

Rich reviewed the background documentation on the proposed amendments to 301 CMR 40.00 Toxic Use Fee and 301 CMR 41.00 Toxic or Hazardous Substance List. As part of that review he informed the Council about the two-year sunset provision in the 2006 TURA Amendments that would effectively eliminate CECRLA chemical reporting as of August 1, 2008. He explained the council would need to take action by August 1, 2008 in order to retain the CERCLA chemicals for the entire 2008-reporting year.

In closing, Rich informed the Council that the Advisory Committee to the Administrative Council had been appointed by Secretary Bowles. Glenn Keith mentioned the Council has the authority to change the fee for Higher Hazard Substances. Rich stated the Council is required by statute to evaluate the TURA fee structure prior to August 1, 2008, and that this topic would be a good one for the Advisory Committee to begin evaluating.

A motion was made and seconded that for calendar year reporting period 2008, the substances listed on the CERCLA list as of January 2002, shall be retained on the toxic or hazardous substance list, excluding the substances currently specified in 301 CMR 41.03(1) –(13). The motion was unanimously approved.

VI. Next Meeting – will be scheduled by Rich Bizzozero to be held during the week of December 10 – 14, 2007.

VII. Adjourn

There being no further business, Phil adjourned the meeting.

